

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 4-9 and 13-18 are pending in the application, with 4, 7, 13, and 16 being the independent claims. Claims 4, 7 and 13-16 are amended. Support for the amendment of independent claims 4, 7, 13 and 16 may be found at FIG. 1 and the accompanying text of the Specification. Support for the amendment of claims 13-15 may be found and at para. 0017 of the Specification. These changes introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 112

The Examiner argues that claim 13 fails to comply with the written description requirement. Specifically, the Examiner contends that the phrase “computer readable medium comprising a device” is not found in the applicant’s specification, and that the claim therefore contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

The Applicant respectfully refers the Examiner to paragraph 0017 of the Specification, which states, “a machine-readable medium may include any mechanism for storing or transmitting information in a form readable by a machine (e.g., a computer).” The Specification therefore refers to a computer-readable medium. This

paragraph goes on to provide several examples of machine-readable media that constitute devices, such as “a hard disk, floppy diskettes, optical disks, Compact Disc, Read-Only Memory (CD-ROM), magneto-optical disks, Read-Only Memory (ROM), Random Access Memory (RAM), Erasable Programmable Read-Only Memory (EPROM), Electrically Erasable Programmable Read-Only Memory (EEPROM), magnetic or optical cards, flash memory,...” One skilled in the relevant art would plainly understand that these are devices. The applicant therefore believes that the written description requirement was met by claim 13.

Nonetheless, as seen in the above amendment and the discussion below, claim 13 and its dependent claims have been amended to recite a non-transitory medium, per the Examiner’s suggestion.

Rejections under 35 U.S.C. § 101

The Examiner has rejected claims 13-15, arguing that these claims are directed to non-statutory subject matter. These claims had been previously amended to recite a computer-readable medium comprising a device. The Examiner argues that it has not been shown how a computer readable medium would comprise a device. Para. 0017 of the Specification states, however, “a machine-readable medium may include a mechanism for storing or transmitting information in a form readable by a machine (e.g., a computer). These mechanisms include, but are not limited to, a hard disk, floppy diskettes, optical disks, Compact Disc, Read-Only Memory (CD-ROM), magneto-optical disks, Read-Only Memory (ROM), Random Access Memory (RAM), Erasable Programmable Read-Only Memory (EPROM), Electrically Erasable Programmable

Read-Only Memory (EEPROM), magnetic or optical cards, flash memory, a transmission over the Internet, electrical, optical, acoustical or other forms of propagated signals...” Applicant contends that any electrical engineer, technician, computer systems professional, or other person of ordinary skill in the art would understand that certain of these represent devices.

Nonetheless, per the Examiner’s suggestion, these claims have been amended to recite a non-transitory medium. As amended, these claims now recite a medium that necessarily cannot be a signal or wave. For at least this reason, claims 13-15 as amended comply with 35 U.S.C. § 101.

Rejections under 35 U.S.C. § 103

The Examiner argues that U.S. Patent Application Publication 2004/0181814 A1 (“Ellis”) discloses a set-top box (FIG. 5, ref. 500) and a remote control (FIG. 5, ref. 200), where the remote control performs the operations recited in claim 4. Applicant respectfully points out that the ref. 200 of Ellis is an IR transmitter, not a remote control. Rather, the remote control is identified by Ellis as ref. 118. See Ellis, para. 0060. Moreover, the Examiner argues that the two cited components (500 and 200) are the same physical device. But Applicant respectfully wishes to point out that if a remote control were part of the set-top box, then it would not be a remote. Rather, it would necessarily be a physical part of the set-top box, and would not be remote from the set-top box. For this reason, the Applicant disagrees that the IR transmitter of Ellis should or could be construed as a remote control.

Nonetheless, the Applicant has amended the independent claims in the manner suggested by the Examiner. The claims in their current form are therefore not obvious over the cited art at least for the reasons presented below.

The Examiner has rejected claim 4, arguing that this claim is obvious over Ellis in view of U.S. Patent Application Publication 2005/0081245 A1 ("Arad") and further in view of U.S. Patent 6,876,970 B1 ("Silver"). Among other features, the cited art fails to disclose or suggest a role of a remote control, separate from the set-top box, in the method of claim 4 as amended.

The Examiner first addresses the feature of determining, by a remote control, a last channel to which a television was tuned prior to the television being turned off. The Examiner argues that this feature is rendered obvious by Ellis in view of Silver. While Ellis may describe determination of a reserved channel, and Silver may mention the determination by a receiver of the last channel viewed, neither discloses nor suggests the determination, by a remote control separate from the set-top box, of the last channel to which a television was tuned.

The Examiner also discusses the feature of determining, by the remote control, whether the last channel tuned to prior to being turned off was a radio frequency remodulated (RF-remodulated) channel via a media center set-top box. The Examiner argues that this feature is rendered obvious over Ellis, Arad, and Silver. While Ellis may discuss a set-top box (STB) that tunes to a particular channel, Arad may discuss a radio-frequency (RF) remodulated channel, and Silver may discuss a last-viewed channel, none of these references discloses or suggests the recited feature. The references fail to disclose or suggest the determination, by a remote control separate from the set-top box,

of whether the last channel tuned to prior to being turned off was a radio frequency remodulated (RF-remodulated) channel.

The Examiner further discusses the feature of sending, from the remote control, a signal to the media center set-top box to indicate that the television is on line with the RF-remodulated channel, if the last channel was an RF-remodulated channel. The Examiner argues that this feature is obvious over Ellis in view of Silver. Ellis may disclose signaling to a STB, and Silver may disclose a last viewed channel, but neither reference discloses or suggests sending a signal to a set-top box, where the signal indicates that the television is on line with the RF-remodulated channel, if the last channel was an RF-remodulated channel.

The Examiner also discusses the feature of receiving, from the media center set-top box, an indication identifying a cable channel that was most recently RF-remodulated for transmission on the RF-remodulated channel for the television, if a tuner in the media center set-top box is not available for the television. This feature has been amended to recite that the indication is received at the remote control that is separate from the set-top box. Neither Ellis, Arad, nor Silver discloses or suggests the receipt, at a remote control separate from the set-top box, of such an indication. Nor do any of the references disclose or suggest the receipt of such an indication in the event that a tuner in the STB is unavailable.

Finally, the Examiner argues that the cited references suggest the feature of automatically changing the television, with the remote control, to the identified cable channel to satisfy expectations of a user when the tuner is not available for the television. While the cited art may disclose the changing of a television to an identified cable

channel, none of the references disclose or suggest doing so on the condition of the tuner's unavailability.

For at least these reasons, the cited references, whether considered singly or in any reasonable combination, fail to disclose or suggest features of claim 4 as amended. This claim is therefore not obvious over the Ellis, Arad, and Silver references.

Claims 5 and 6 depend from claim 4 as amended and therefore include all features thereof. Given that the cited art fails to disclose or suggest all features of claim 4 as amended, the cited art also fails to disclose or suggest all features of either claim 5 or claim 6. Neither claim is obvious over the Ellis, Arad, and Silver references, whether these references are considered alone or in any reasonable combination.

The Examiner has also rejected claim 7, arguing that this claim is obvious over Ellis in view of Arad and further in view of Silver. As in the case of claim 4, the cited references, whether considered or in any reasonable combination, do not disclose or suggest features of claim 7. In particular, the cited art fails to disclose or suggest a media center set-top box,

wherein the remote control determines a last channel to which the television was tuned prior to the television being turned off,

wherein the remote control determines whether the last channel tuned to prior to being turned off was a radio frequency remodulated (RF-remodulated) channel,

wherein the remote control sends a signal to the media center set-top box to indicate that the television is on line with the RF-remodulated channel if the last channel was a RF-remodulated channel,

wherein the remote control receives an indication from the media center set-top box, the indication identifying a cable channel that was most recently RF-remodulated for transmission on the RF-remodulated channel for the television if a tuner in the media center set-top box is not available for the television, and

wherein the remote control automatically changes the television to the identified cable channel to satisfy expectations of a use when the tuner is not available for the television,

wherein the remote control is separate from the media center set-top box.

For at least these reasons, claim 7 is not rendered obvious over Ellis, Arad, and Silver, whether considered alone or in any reasonable combination.

Claims 8 and 9 depend from claim 7 and therefore include all features thereof. Given that the cited art fails to disclose or suggest features of claim 7, the cited art also fails to disclose or suggest features of claim 8 and claim 9. Neither claim is obvious over the Ellis, Arad, and Silver references, whether these references are considered alone or in any reasonable combination.

The Examiner has also rejected claim 13, arguing that this claim is obvious over Ellis in view of Arad and further in view of Silver. As in the case of claim 4, the cited references, whether considered alone or in any reasonable combination, fail to disclose or suggest features of claim 13 as amended. In particular, the cited art fails to disclose or suggest that any of the following features of this claim:

determining, by a remote control, a last channel to which a television was tuned prior to the television being turned off;

determining, by the remote control, whether the last channel tuned to prior to being turned off was a radio frequency remodulated (RF-remodulated) channel via a media center set-top box;

if the last channel was an RF-remodulated channel, then sending, from the remote control, a signal to the media center set-top box to indicate that the television is on line with the RF-remodulated channel;

if a tuner in the media center set-top box is not available for the television, then receiving at the remote control, from the media center set-top box, an indication, the indication identifying a cable channel that was most recently RF-remodulated for transmission on the RF-remodulated channel for the television; and

automatically changing the television with the remote control to the identified cable channel to satisfy expectations of a user when the tuner is not available for the television

wherein the remote control is separate from the media center set-top box.

For at least these reasons, claim 13 as amended is not obvious over the Ellis, Arad, or Silver references, whether these references are considered alone or in any reasonable combination.

Claims 14 and 15 depend from claim 13 as amended and therefore include all features thereof. Given that the cited art fails to disclose or suggest all features of claim 13 as amended, the cited art also fails to disclose or suggest all features of either claim 14 or claim 15. Therefore neither claim is obvious over the Ellis, Arad, and Silver references, whether these references are considered alone or in any reasonable combination.

The Examiner has also rejected claim 16, arguing that this claim is obvious over Ellis, in view of Arad and Silver. As in the case of claim 4 as amended, the cited references, whether considered or in any reasonable combination, fail to disclose or suggest features of claim 16 as amended. In particular, the cited art fails to disclose or suggest a remote control,

wherein the remote control determines a last channel to which the television was tuned prior to the television being turned off,

wherein the remote control determines whether the last channel tuned to prior to being turned off was a radio frequency remodulated (RF-remodulated) channel via a media center set-top box,

wherein the remote control sends a signal to the media center set-top box to indicate that the television is on line with the RF-remodulated channel if the last channel was a RF-remodulated channel,

wherein the remote control receives an indication from the media center set-top box, the indication identifying a cable channel that was most recently RF-remodulated for transmission on -the RF-remodulated channel for the television if a tuner in the media center set-top box is not available for the television,

wherein the remote control automatically changes the television to the identified cable channel to satisfy expectations of a use when the tuner is not available for the television,

wherein the remote control is separate from the media center set-top box.

For at least these reasons, claim 16 is not obvious over the cited art.

Claims 17 and 18 depend from claim 16 and therefore include all features thereof. Given that the cited art fails to disclose or suggest all features of claim 16, the cited art also fails to disclose or suggest all features of either claim 17 or claim 18. Therefore neither claim is obvious over the Ellis, Arad, and Silver references, whether these references are considered alone or in any reasonable combination.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

Moreover, the Applicant appreciates the Examiner's suggestions for amendments to the claims. If the Examiner believes, for any reason, that personal communication will further expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

GARRETT IP, L.L.C.

/ Edward W. Yee, Reg. No. 47,294/

Edward W. Yee
Attorney for Applicants
Registration No. 47,294

Date: May 24, 2010

10440 Little Patuxent Pkwy.
Suite 300
Columbia MD 21044
(301) 421-1449